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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,652	12/13/2004	Maziar Nekovee	36-1875	5630

23117 7590 09/16/2008  
NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER
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NGUYEN, MINH CHAU

ART UNIT	PAPER NUMBER
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2145

MAIL DATE	DELIVERY MODE
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09/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Pre-Interview Communication</b> (For use in the First Action Interview Pilot Program)	<b>Application No.</b> 10/517,652	<b>Applicant(s)</b> NEKOVEE ET AL.	
	<b>Examiner</b> MINH-CHAU NGUYEN	<b>Art Unit</b> 2145	Page 1 of 3

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

**This time period for reply is NOT extendable under 37 CFR 1.136(a). This communication constitutes notice under 37 CFR 1.136(a)(1)(i).**

To avoid abandonment of the application, applicant must, within this time period for reply, file:

- (1) A letter requesting not to have a first-action interview, or
- (2) A completed Applicant Initiated Interview Request Form (PTOL-413A) accompanied by a proposed amendment or arguments.

Inventor participation in the Pre-First Action Interview is encouraged if it would expedite resolution of the application.

#### Disposition of Claims

- 3) ☒ Claim(s) 24-43 is/are pending in the application.  
 3a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 4) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 5) ☒ Claim(s) 24-28, 30-34, 36-43 is/are rejected.
- 6) ☒ Claim(s) 29, 35 is/are objected to.
- 7) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

#### Contact Information

Examiner's Telephone Number: (571)272-4242  
 Examiner's Typical Work Schedule: 7AM-3:30PM  
 Supervisor's Name: JASON CARDONE  
 Supervisor's Telephone Number: (571) 272-3933

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/6/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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**Notification of Rejection(s) and/or Objection(s)**

#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection
1	24-30, 36-39		101	Claims 24-30 recites one or more parameter values and minise an expression defined as a function of the parameteres, etc. The function as claimed is a mathematical algorithms pe se and mathematical is not considered patentable subject matter.
2	24-27,30-31,36-43	A,B	103(a)	Reference A discloses claim 24 (see Col. 2, L. 35-49, Col. 4, L. 6-Col. 5, L. 31) except for "expected extra latency for the feedback due to the timer function". Reference B discloses this limitation (see continuation below)
3	28	A,B,C	103(a)	A and B do not disclose a monotonic function. C discloses this at (Col. 9, L. 61-Col. 10, L. 6). It would have been obvious to use C's monotonic function with combined system of A and B in order to minimise the latency of data transmission in the network.
4	32	A,B,D	103(a)	A and B do not disclose size of the group of receivers. D discloses this at (Col. 12, L. 65-67). It would have been obvious to use D's size of the group receivers with combined system of A and B in order to help recalculate values of (see continuation)
5	33-34	A,B,E	103(a)	A and B do not disclose conditions, a lookup table, and an event occur when the conditoin change. E discloses these limitatioins (paragrph 15). It would have been obvious to use E's conditions, the table and the event occurs when (see continuation)

**Expanded Discussion/Commentary**

1	Claim 36 recites "a storage medium carrying computer readable code representing instructions", claim 37 recites "a computer data signal embodied in a carrier wave and representing instructions", claims 38-39 recite "a storage medium or data signal". All these claims are addressed to instructions (which is not stored in the medium in claim 36) and data signal. Instructions and data signal are not a statutory subject matter.
2	(see abstract, Col. 7, L. 48-Col. 9, L. 4, Col. 13, L. 10-Col. 14, L. 62). It would have been obvious to use reference B's feature and algorithm with reference A's scaleable congestion control method for multicast communications over data network in order to improve the reliability of data transmission in a communication network. Claims 25,30-31,36-43 (see A, Col. 2, L. 35-49, Col. 4, L. 6-Col. 5, L. 31), claim 26 (see B, Col. 12, L. 49-Col. 14, L. 63), claim 27 (see B, Col. 8, L. 1-6).
4	parameters of the timer function in an accurate manner.
5	the condition chage in order to improve the traffic ontrol and congestion control in the communication network.

DATE:

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Notification of Rejection(s) and/or Objection(s)				
#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection
6	32		112, second paragraph	Claim 32 recites the limitation "the size of the group of receivers" in page 5. There is insufficient antecedent basis for this limitation in the claim.
7	29,35		Objected Allowable	Claims 29 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Expanded Discussion/Commentary		
DATE:		